



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

| <b>COUNCIL MEMBERS</b>        | <b>REDEVELOPMENT AGENCY</b> |
|-------------------------------|-----------------------------|
| Dennis Kennedy, Mayor         | Dennis Kennedy, Chair       |
| Hedy Chang, Mayor Pro Tempore | Hedy L. Chang, Vice-Chair   |
| Larry Carr, Council Member    | Larry Carr, Agency Member   |
| Greg Sellers, Council Member  | Greg Sellers, Agency Member |
| Steve Tate, Council Member    | Steve Tate, Agency Member   |

**WEDNESDAY, JUNE 4, 2003**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL SPECIAL AND REGULAR MEETING**

**And**

**REDEVELOPMENT AGENCY SPECIAL MEETING**

**6:00 P.M.**

***A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.***

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**Dennis Kennedy, Mayor/Chairman**

**CALL TO ORDER**

(Mayor/Chairperson Kennedy)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**6:00 P.M.**

## ***City Council Action and Redevelopment Agency Action***

### **CLOSED SESSION:**

**1.**

#### **EXISTING LITIGATION**

Authority: Government Code section 54956.9(a)  
Case Name/Number: Santa Teresa Citizen Action Group et al. v. Bay Area Air Quality  
Management District (Court of Appeals, First District, A102518).

**2.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Significant Exposure/Initiation of Litigation

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 4

**3.**

#### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:**

Legal Authority: Government Code 54956.9(a)  
Case Name: San Jose Christian College v. City of Morgan Hill  
Case Number: Ninth Circuit Court of Appeal, No. 02-15693

**4.**

#### **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Pursuant to Government Code 54957  
Public Employee Performance Evaluation: City Manager  
Attendees: City Council, City Manager

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **RECOGNITIONS**

Explorer Challenge 2003

*Officer Gary Cupps, Officer Max Cervantez; Officer Stacey Thornburg;  
Explorers Nathan Mazon, Alfredo Carrasco, Ryan Halla, Gabriel Sedberry, and Tamara Cupps.*

**CITY COUNCIL REPORT**

Mayor Kennedy

**CITY COUNCIL SUB-COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**

(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**

(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council Action***

**CONSENT CALENDAR:**

**ITEMS 1-14**                      The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

**Time Estimate**

**Page**

**Consent Calendar: 1 - 10 Minutes**

1.     **EXTENSION OF CONTRACT FOR CONSULTANT PLANNING SERVICES** ..... **1**  
      **Recommended Action(s): Authorize** the City Manager to Execute a Contract in the Amount of \$60,000 for Contract Planning Services. Approval of the Contract Extension is Contingent on City Council Approval of the Planning Division's Fiscal Year 2003-2004 Budget, as Recommended for Contract Labor Services.
2.     **AMEND AGREEMENT WITH THE STROMBOTNE LAW FIRM**..... **15**  
      **Recommended Action(s): Authorize** the City Manager to Execute an Amendment to Agreement with the Strombotne Law Firm.
3.     **SECOND AMENDMENT TO AGREEMENT WITH THE LAW FIRM OF DOWNEY, BRAND, SEYMOUR AND ROHWER, LLP**..... **33**  
      **Recommended Action(s): Authorize** the City Manager to Execute a Second Amendment to Agreement with the Law Firm of Downey, Brand, Seymour & Rohwer, LLP.

**Time Estimate**

**Consent Calendar: 1 - 10 Minutes**

**Page**

|     |  |     |
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| 4.  | <b><u>APPROVAL OF LEASE OF PERCHLORATE REMOVAL PLANT TO BE INSTALLED AT THE TENNANT WELL SITE</u></b> .....  | 49  |
|     | <b>Recommended Action(s):</b> <u>Authorize</u> the City Manager to Execute Documents as Required with Both the Santa Clara Valley Water District and US Filter to Provide for the Lease of a Perchlorate Removal Plant.  |     |
| 5.  | <b><u>APPROVAL OF PURCHASE ORDER FOR SYSTEMS FURNITURE REORGANIZATION – PUBLIC WORKS OFFICE EXPANSION PROJECT</u></b> .....  | 51  |
|     | <b>Recommended Action(s):</b> <u>Authorize</u> the City Manager to Execute a Purchase Order with Office Products and Interiors (OPI) in the Amount of \$67,024.35 for the Reorganization of Systems Furniture and Partitions at the Public Works Administrative Offices.   |     |
| 6.  | <b><u>REJECTION OF BIDS FOR CONSTRUCTION OF THE MONTEREY ROAD/UNION PACIFIC RAILROAD (UPRR) UNDERCROSSING PEDESTRIAN AND BIKEWAY IMPROVEMENT PROJECT</u></b> .....   | 53  |
|     | <b>Recommended Action(s):</b> <u>Reject</u> the Bids Received on April 22, 2003 for the Construction of the Monterey Road/UPRR Undercrossing Pedestrian and Bikeway Improvement Project.   |     |
| 7.  | <b><u>ACCEPTANCE OF SIDEWALK, CURB &amp; GUTTER REMOVAL AND REPLACEMENT, PHASE I 2002-2003 PROJECT</u></b> .....   | 55  |
|     | <b>Recommended Action(s):</b>  |     |
|     | 1. <u>Accept</u> as Complete the Sidewalk, Curb & Gutter Removal and Replacement, Phase I 2002-2003 Project in the Final Amount of \$36,292; and   |     |
|     | 2. <u>Direct</u> the City Clerk to File the Attached Notice of Completion with the County Recorder's Office.   |     |
| 8.  | <b><u>AWARD OF CONTRACT FOR SIDEWALK, CURB &amp; GUTTER REMOVAL AND REPLACEMENT, PHASE II 2002-2003 PROJECT</u></b> .....  | 61  |
|     | <b>Recommended Action(s):</b>  |     |
|     | 1. <u>Award</u> Contract to Monterey Peninsula Engineering, Inc. for the Construction of the Sidewalk, Curb and Gutter Removal and Replacement 2002-2003 Phase II Project in the Amount of \$58,000; and   |     |
|     | 2. <u>Authorize</u> Expenditure of Construction Contingency Funds Not to Exceed \$5,800.   |     |
| 9.  | <b><u>COUNTYWIDE AB 939 IMPLEMENTATION FEE AGREEMENT</u></b> .....   | 73  |
|     | <b>Recommended Action(s):</b> <u>Direct</u> Staff to Execute Agreement with the County of Santa Clara.   |     |
| 10. | <b><u>RESOLUTION AMENDING CITY'S CONFLICT OF INTEREST CODE REPORTING CATEGORIES</u></b> .....  | 87  |
|     | <b>Recommended Action(s):</b> <u>Adopt</u> Resolution No 5761, Amending the List of Positions Subject to the City's Conflict of Interest Code.   |     |
| 11. | <b><u>ADOPT ORDINANCE NO. 1620, NEW SERIES</u></b> .....   | 95  |
|     | <b>Recommended Action(s):</b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1620, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A ZONING AMENDMENT TO ESTABLISH A DEVELOPMENT PLAN AND DEVELOPMENT GUIDELINES FOR A 3 LOT COMMERCIAL DEVELOPMENT ON A 3.88-ACRE PLANNED UNIT DEVELOPMENT LOCATED ON THE NORTH SIDE OF EAST DUNNE AVENUE BETWEEN CONDIT ROAD AND MURPHY AVENUE (APNS 728-17-16, 17 &amp; 23) .</b> |     |
| 12. | <b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 21, 2003, CLOSED SESSION ITEM - AUDUBON SOCIETY</u></b> .....   | 121 |

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

13. **APPROVE SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 21, 2003, CLOSED SESSION ITEM - EMPLOYEE PERFORMANCE EVALUATION** ..... 123
14. **APPROVE SPECIAL CITY COUNCIL MEETING MINUTES FOR MAY 23, 2003, CLOSED SESSION** ..... 125

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 15-16**

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**Consent Calendar: 1 - 10 Minutes**

15. **APPROVE JOINT REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR MAY 21, 2003** ..... 127
16. **APPROVE JOINT SPECIAL CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR MAY 23, 2003** ..... 151

## ***City Council Action***

### **PUBLIC HEARINGS:**

**Time Estimate** **Page**

17. **2 Minutes** **DEVELOPMENT AGREEMENT – DA-03-03: HALE-GARCIA** ..... 157  
Public Hearing Opened.  
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed  
Council Discussion.  
Action- **Open Public Hearing** and **Continue** to August 20, 2003 Agenda.
18. **15 Minutes** **2003 HAZARDOUS BRUSH PROGRAM COMMENCEMENT REPORT AND PUBLIC HEARING** ..... 159  
Public Hearing Opened.  
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed  
Council Discussion.  
Action- **Accept** 2003 Hazardous Brush Program Commencement Report.
19. **45 Minutes** **ZONING AMENDMENT APPLICATION, ZAA-98-16: CONDIT-HORIZON LAND (THE FORD STORE)** ..... 165  
Public Hearing Opened.  
Please Limit Your Remarks to 3 Minutes. Public Hearing Closed  
Council Discussion.  
Action- **Approve** Mitigated Negative Declaration.  
Action- **Motion to Waive** the Reading in Full of Ordinance No. 1621, New Series  
Action- **Motion to Introduce** Ordinance No. 1621, New Series by Title Only. (Roll Call Vote)

## ***City Council Action***

### **OTHER BUSINESS:**

|     | <b>Time Estimate</b> |   | <b>Page</b> |
|-----|----------------------|---|-------------|
| 20. | 10 Minutes           | <b><u>REQUEST TO ADOPT THE CIVIC CENTER PARK BY THE LEADERSHIP MORGAN HILL 2003 CLASS</u></b> .....   | 205         |
|     |                      | <b><u>Recommended Action(s):</u></b>  |             |
|     |                      | 1. <b><u>Receive</u></b> Report from the Leadership Morgan Hill 2003 Class; and   |             |
|     |                      | 2. <b><u>Approve</u></b> Request from Leadership Morgan Hill 2003 Class to Adopt the Civic Center Park as the “Leadership Park” Project.      |             |
| 21. | 15 Minutes           | <b><u>AWARD PHASE 1 OF CONSTRUCTION CONTRACT FOR POOL PACKAGE – MORGAN HILL AQUATICS COMPLEX</u></b> .....                                    | 207         |
|     |                      | <b><u>Recommended Action(s):</u></b>  |             |
|     |                      | 1. <b><u>Approve</u></b> Project Plans and Specifications; and  |             |
|     |                      | 2. <b><u>Award</u></b> the Contract to California Commercial Pools in the Amount of \$58,000 for Phase 1 – Pool Shop Drawing Submittals Only. |             |
| 22. | 30 Minutes           | <b><u>BURROWING OWL HABITAT MITIGATION PLAN</u></b> .....   | 211         |
|     |                      | <b><u>Recommended Action(s):</u></b> <b><u>Approve</u></b> the Plan.  |             |

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

### **ADJOURNMENT**